

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SAVANNAH FOODS INDUSTRIAL, INC.

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

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WE-CN-01-0010

AGENCY INTEREST NUMBER 2007

SETTLEMENT

The following Settlement is hereby agreed to between Savannah Foods Industrial, Inc. (formerly "Colonial Sugars, Inc."), (hereafter "Respondent"), and the Louisiana Department of Environmental Quality (hereafter "Department"), under authority granted by the Louisiana Environmental Quality Act, LSA- R.S. 30:2001, et seq., (the "Act").

I

Respondent owns and/or operates a sugar refinery located at 1230 South Fifth Avenue in Gramercy, St. James Parish, Louisiana. This facility is commonly known as the Colonial Sugar Refinery. Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0000604 effective on November 10, 1992, with an expiration date of November 9, 1997. On April 10, 1995, an application for the renewal of LPDES permit LA0000604 was submitted in a timely manner and, therefore, the permit has been administratively continued. Respondent is authorized to discharge certain quantities and/or qualities of treated process wastewater and barometric cooling water from Outfall 001 and treated sanitary wastewater from Outfall 002 to the Colonial Sugar Canal, thence into the Blind River, thence into Lake Pontchartrain, all waters of the

state.

II

The allegations which form the basis of the enforcement actions are as follows:

- A. On or about February 3, 1998, Respondent was issued Compliance Order WE-C-97-0081 to address effluent limitation exceedances, improper collection methods and reporting, and operation and maintenance deficiencies. Compliance Order WE-C-97-0081, specifically incorporated herein by reference, is a final action of the Department and not subject to further review.
- B. On or about November 22, 1999, Respondent was issued Notice of Potential Penalty WE-PP-99-0116 for deficiencies noted in a compliance inspection conducted by the Department on or about October 30, 1998 and a file review conducted in or about October 1999. These deficiencies included, but were not limited to, operation and maintenance, flow measurement and effluent limitation violations. Notice of Potential Penalty WE-PP-99-0116 is specifically incorporated herein by reference.
- C. An inspection conducted by the Department on or about June 4, 2001, revealed that Respondent failed to have an approved Spill Prevention and Control (SPC) plan on site. Further, a file review conducted on or about August 9, 2001, revealed numerous effluent limitation violations reported by Respondent on its Discharge Monitoring Reports (DMRs) and Noncompliance Reports between September 1999 and June 2001.

III

As a result of the inspection and file review cited in Paragraph II(C) above, the Department issued to Respondent Compliance Order and Notice of Potential Penalty, Enforcement Tracking Number WE-CN-01-0010, on August 31, 2001. Respondent issued a response to the enforcement action on October 18, 2001. Respondent did not request a hearing; therefore, this enforcement action is final and not subject to further review.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of Twenty Two Thousand and 00/100 (\$22,000.00) Dollars, (Eight Hundred Ninety-Four and 80/100 (\$894.80) Dollars of this amount shall be deemed to be reimbursement to the Department for enforcement costs incurred by the Department) in settlement of the claims set forth in this agreement.

VI

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order(s) and Notice(s) of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped

from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. James Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 82231, Baton Rouge, Louisiana, 70884-2231.

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

The person signing for the Respondent and the Department both represent that they have the requisite authority to sign for the party.

WITNESSES:

Raylorde Jr.

Diana Jettie Henry

RESPONDENT

BY: W.F. Schwer

NAME: W.F. Schwer
Sr. Vice President

TITLE: _____

RLC

THUS DONE AND SIGNED before me this 14th day of May, 2002, in Sugar Land Tx.



Susan Dimucci
NOTARY PUBLIC

WITNESSES:

London Throckmole

Andrew Dubanowski

STATE OF LOUISIANA

J. Dale Givenis, Secretary
Dept. of Environmental Quality

BY: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED before me this 17th day of October, 2002, in Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC

Approved: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary